

EXHIBIT 30

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ATTACHMENT 30

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HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4
5 CISCO SYSTEMS, INC. Case No.: 5:14-cv-05344-BLF (PSG)
6
7 Plaintiff,
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9 v.
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12 ARISTA NETWORKS, INC.
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14 Defendants.
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* HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY *

VIDEOTAPED DEPOSITION OF KIRK LOUGHEED

Palo Alto, California

Monday, April 4, 2016

Volume 2

Reported by:

LESLIE JOHNSON

RPR, CSR No. 11451

Job No.: 2285024

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<p>1 UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA 3 SAN JOSE DIVISION 4 CISCO SYSTEMS, INC. Case No.: 5:14-cv-05344-BLF(PSG) 5 Plaintiff. 6 v. 7 ARISTA NETWORKS, INC. 8 Defendants.</p> <hr/> <p>14 * HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY *</p> <p>15 16 17 VIDEOTAPED DEPOSITION OF KIRK LOUGHED. Volume 2. 18 taken on behalf of Defendant, at 601 California Avenue. 19 Palo Alto, California, beginning at 9:25 a.m. and ending 20 at 4:37 p.m., on Monday, April 4, 2016, before 21 LESLIE JOHNSON, Certified Shorthand Reporter No. 11451. 22 23 24 25</p>	<p>1 INDEX 2 3 WITNESS EXAMINATION 4 KIRK LOUGHED Volume 2 5 6 BY MR. WONG 197 7 8 EXHIBITS 9 KIRK LOUGHED 10 NUMBER DESCRIPTION PAGE 11 Exhibit 452 Copy of name badge; 1 page 198 12 Exhibit 453 Black and white copy of photograph; 198 1 page 13 14 Exhibit 454 Patent Agreement; Bates stamped 208 15 KL-00000872 to 891 16 Exhibit 455 A Multiple Protocol Kernel for 228 Local Area Network Software 17 Development Reference Manual; Bates stamped KL-00000001 to 93 18 19 Exhibit 456 Document entitled "Chaosnet"; Bates 238 20 stamped KL-00000186 to 250 21 Exhibit 457 Document entitled "Debugging 241 Information"; Bates stamped 22 KL-00000564-654 23 Exhibit 458 DECnet Digital Network Architecture 244 (Phase V); Bates stamped 24 KL-00000251 to 380 25 Exhibit 459 E-mail from Stanford Low Overhead 252 Timesharing; Bates stamped 26 KL-00001699 to 763</p>
<p>Page 191</p>	<p>Page 193</p>

<p>1 APPEARANCES: 2 3 FOR PLAINTIFF CISCO SYSTEMS, INC.: 4 QUINN EMANUEL URQUHART & SULLIVAN LLP 5 BY: JOHN (JAY) NEUKOM, ESQ. 6 50 California Street, 22nd Floor 7 San Francisco, California 94111 8 (415)875-6600 9 johnneukom@quinnmanuel.com 10 FOR DEFENDANT ARISTA NETWORKS, INC.: 11 KEKER & VAN NEST LLP 12 BY: RYAN WONG, ESQ. 13 633 Battery Street 14 San Francisco, California 94111 15 (415)391-5400 16 rwong@kvn.com 17 ALSO PRESENT: 18 SEAN GRANT, Videographer 19 20 21 22 23 24 25</p>	<p>1 EXHIBITS (Cont.) 2 KIRK LOUGHED 3 NUMBER DESCRIPTION PAGE 4 Exhibit 460 E-mail dated 10-Jan-83 from Barb 260 at ISL to Computer Committee; Bates 5 stamped KL-00000868 to 871 6 Exhibit 461 Stanford Etherip/Gateway User and 263 Configuration Guide; Bates stamped 7 CSI-CLI-01315367 to 97 8 Exhibit 462 Letter dated August 21, 1986 from 281 Robert L. Street to Len Bosack; 9 Bates stamped CSI-CLI-01839502 to 504 10 Exhibit 463 E-mail dated 4/3/2006 from Kirk 298 11 Lougheed to Vivian Neou; Bates stamped CSI-CLI-01124245 12 Exhibit 464 Cisco's Amended Exhibit F; 44 pages 302 13 Exhibit 465 Software Unit External Functional 310 14 Specification; Bates stamped CSI-CLI-090608751 to 752 15 Exhibit 466 ipsupport.c -- miscellaneous IP 328 16 support code; 20 pages 17 Exhibit 467 Document entitled "Part 3: Media 332 Access Control (MAC Bridges"; 18 Bates stamped ARISTANDCA00032440 to 812 19 Exhibit 468 Contents of "tip" directory; 1 page 348 20 Exhibit 469 Commandl.c -- ASM/AGS commands; 355 21 Bates stamped KL-SC-00000001 to 9 22 Exhibit 470 Config.c -- parse and act upon 358 configuration commands; Bates 23 stamped KL-SC-00000010 to 20 24 Exhibit 471 Exec.c -- ASM/AGS command level; 365 Bates stamped KL-SC-00000021 to 32 25</p>
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<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding-bottom: 5px;">1</th><th style="text-align: left; padding-bottom: 5px;">EXHIBITS (Cont.)</th><th style="text-align: left; padding-bottom: 5px;">PAGE</th><th></th></tr> </thead> <tbody> <tr> <td style="text-align: left; padding-bottom: 5px;">2</td><td style="text-align: left; padding-bottom: 5px;">KIRK LOUGHEED</td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">3 NUMBER</td><td style="text-align: left; padding-bottom: 5px;">DESCRIPTION</td><td style="text-align: left; padding-bottom: 5px;">PAGE</td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">4 Exhibit 472</td><td style="text-align: left; padding-bottom: 5px;">"cisco.e" source code; 1 page</td><td style="text-align: left; padding-bottom: 5px;">371</td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">5 Exhibit 473</td><td style="text-align: left; padding-bottom: 5px;">"stanford.c" source code; 1 page</td><td style="text-align: left; padding-bottom: 5px;">371</td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">6 Exhibit 474</td><td style="text-align: left; padding-bottom: 5px;">Source code; Bates stamped</td><td style="text-align: left; padding-bottom: 5px;">375</td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">7</td><td style="text-align: left; padding-bottom: 5px;">KL-SC-00000033 to 41</td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">8</td><td style="text-align: left; padding-bottom: 5px;">Exhibit 475 Source code; Bates stamped</td><td style="text-align: left; padding-bottom: 5px;">375</td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">9 Exhibit 476</td><td style="text-align: left; padding-bottom: 5px;">Cisco Systems ASM/AGS User Manual and Configuration Guide; Bates stamped CSI-CLI-00358622 to 54</td><td style="text-align: left; padding-bottom: 5px;">383</td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">11</td><td style="text-align: left; padding-bottom: 5px;">* * *</td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">12</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">13</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">14</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">15</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">16</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">17</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">18</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">19</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">20</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">21</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">22</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">23</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">24</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left; padding-bottom: 5px;">25</td><td></td><td></td><td></td></tr> </tbody> </table>	1	EXHIBITS (Cont.)	PAGE		2	KIRK LOUGHEED			3 NUMBER	DESCRIPTION	PAGE		4 Exhibit 472	"cisco.e" source code; 1 page	371		5 Exhibit 473	"stanford.c" source code; 1 page	371		6 Exhibit 474	Source code; Bates stamped	375		7	KL-SC-00000033 to 41			8	Exhibit 475 Source code; Bates stamped	375		9 Exhibit 476	Cisco Systems ASM/AGS User Manual and Configuration Guide; Bates stamped CSI-CLI-00358622 to 54	383		11	* * *			12				13				14				15				16				17				18				19				20				21				22				23				24				25				<p>Page 195</p>	<p>1 THE VIDEOGRAPHER: Thank you. Will the 2 certified court reporter please swear in the 3 witness. 4 5 KIRK LOUGHEED, 6 having been administered an oath, was examined and 7 testified as follows: 8 9 EXAMINATION (RESUMED) 10 BY MR. WONG: 11 Q. Good morning, Mr. Lougheed. 12 A. Good morning. 13 Q. Mr. Lougheed, do you understand that this 14 is a continuation of your personal deposition that 15 was taken back on November 20th, 2015? 16 A. I do. 17 Q. And do you understand that you are still 18 testifying under oath as if you were testifying at 19 trial? 20 A. I do. 21 Q. And is there any reason why you cannot 22 give full and truthful testimony today? 23 A. There is no reason. 24 Q. And are you generally still familiar with 25 the ground rules for a deposition?</p>	<p>Page 197</p>
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WONG: Why don't we mark this as the 9 first exhibit for today.</p> <p>10 (Exhibit 452 marked for identification.)</p> <p>11 MR. WONG: And we will mark this one as 12 the next exhibit.</p> <p>13 (Exhibit 453 marked for identification.)</p> <p>14 MR. NEUKOM: Ryan, I have two separate 15 pieces of paper. Are you treating these as two 16 separate exhibits?</p> <p>17 MR. WONG: Yes. I'm going to give them 18 two exhibit numbers and read them into the record in 19 just a second.</p> <p>20 The court reporter has marked as 21 Exhibit 452 a photocopy -- photo bearing Bates Nos. 22 KL-00002202. The court reporter has also marked as 23 Exhibit 453, a black and white photo with Bates Nos. 24 KL-00002201.</p> <p>25 ////</p>	<p>Page 196</p>	<p>Page 198</p>																					
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<p>1 A. A type of computer manufactured by the 2 Digital Equipment Corporation.</p> <p>3 Q. And Digital Equipment Corporation is also 4 known as DEC, right?</p> <p>5 A. Correct.</p> <p>6 Q. And did you work with these DEC VAX 7 super-minicomputers while an employee at Stanford?</p> <p>8 A. One of the -- actually, at least two of 9 the systems programmers were the ones that were 10 primarily responsible for making sure that those 11 systems ran properly.</p> <p>12 Q. Was Mr. Satz one of those systems 13 programmers that --</p> <p>14 A. Yes.</p> <p>15 Q. -- worked with the VAX system?</p> <p>16 A. Yes.</p> <p>17 Q. Is the answer the same for the VAX-11/750 18 super-minicomputers?</p> <p>19 A. Yes.</p> <p>20 Q. Did those VAX machines have a command-line 21 interface?</p> <p>22 MR. NEUKOM: Objection. Vague.</p> <p>23 BY MR. WONG:</p> <p>24 Q. Did the VAX-11/780 systems have a 25 command-line interface?</p>	<p>1 Q. And the first full sentence of that bullet 2 point says, "Supervised a computer science 3 department electronics design engineer in the 4 hardware debugging of a DEC-20 to ethernet 5 interface."</p> <p>6 The next sentence says, "I also wrote the 7 interface's control microcode, the hardware 8 diagnostics, and the operating system support for 9 the device."</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Is that referring to the EtherTIP 13 software?</p> <p>14 A. No.</p> <p>15 Q. What is that referring to?</p> <p>16 A. That's referring to the Massbus-Ethernet 17 Interface Subsystem.</p> <p>18 Q. And that's also reflected with the acronym 19 MEIS, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Did Cisco use any of the software for the 22 MEIS?</p> <p>23 A. No.</p> <p>24 Q. Can you go to the page ending with Bates 25 No. 888 in Exhibit 454.</p>
<p>1 MR. NEUKOM: Objection. Vague.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. WONG:</p> <p>4 Q. Were you familiar with how the VAX 5 command-line interface operated?</p> <p>6 A. VAX is the name of a piece of hardware 7 that would run an operating system.</p> <p>8 Q. Thank you.</p> <p>9 What is the operating system that the VAX 10 hardware ran?</p> <p>11 A. At Stanford there were two possibilities, 12 something called VAX VMS, and there was also 13 Berkeley UNIX.</p> <p>14 Q. Is Berkeley UNIX the same as BSD?</p> <p>15 A. Yes.</p> <p>16 Q. Were you familiar with the VAX VMS 17 command-line interface?</p> <p>18 A. No.</p> <p>19 Q. Were you familiar with the Berkeley UNIX 20 command-line interface?</p> <p>21 A. Yes.</p> <p>22 Q. The last bullet point on the page ending 23 in 886 of Exhibit 454, do you see that? It starts 24 with "Supervised a computer science department."</p> <p>25 A. Yes, I see that paragraph.</p>	<p>1 A. Uh-huh. Yes, I'm on that page.</p> <p>2 Q. The first bullet point, or I guess the 3 only bullet point on this page starts with "Acted as 4 Stanford contact."</p> <p>5 Do you see that?</p> <p>6 A. Yes, I see that paragraph.</p> <p>7 Q. Is it true that you acted as Stanford 8 contact with DEC for field testing of two new 9 releases of the DEC-20 operating system?</p> <p>10 A. Let me finish the paragraph so I can 11 establish context.</p> <p>12 Q. Sure. Please take your time.</p> <p>13 A. Okay. I've read the paragraph. Your 14 question is?</p> <p>15 Q. Is it true you that you acted as the 16 Stanford contact with Digital Equipment Corporation 17 for field testing two new releases of the DEC-20 18 operating system?</p> <p>19 A. Yes.</p> <p>20 Q. Is the DEC 20 operating system the same 21 thing as the TOPS-20 operating system?</p> <p>22 A. Yes.</p> <p>23 Q. Further down on this same page ending with 24 control numbers 888 on Exhibit 454, there's a 25 section called "Special Skills Knowledge or Training</p>

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<p>1 Required Including Tools or Equipment Used."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. And one sentence underneath that heading</p> <p>5 says "Familiarity with the hardware and protocols</p> <p>6 used in local area networks in (ethernet) and</p> <p>7 long-haul national networks (ARPANET)."</p> <p>8 Do you see that?</p> <p>9 A. I see that sentence.</p> <p>10 Q. Did I read that correctly?</p> <p>11 A. You did.</p> <p>12 Q. What protocols were you familiar with as</p> <p>13 of May 6th, 1985 that were used in local area</p> <p>14 networks?</p> <p>15 A. There -- ethernet, even in 1985 had many,</p> <p>16 many protocols. You could run PUP or Park Universal</p> <p>17 Packet. You could run PCPIP. You could run XNS.</p> <p>18 You could run -- by that time, pretty much any</p> <p>19 network protocol would run on an ethernet.</p> <p>20 Q. Was address resolution protocol a protocol</p> <p>21 that was used in local area networks?</p> <p>22 A. On ethernets, yes.</p> <p>23 Q. You can put that document aside.</p> <p>24 MR. WONG: Let's mark this one as</p> <p>25 Exhibit 455, please.</p>	<p>1 MR. NEUKOM: Objection. The question is</p> <p>2 phrased in the hypothetical.</p> <p>3 MR. WONG: Let me rephrase the question so</p> <p>4 it's not hypothetical.</p> <p>5 BY MR. WONG:</p> <p>6 Q. Did you obtain the document marked as</p> <p>7 Exhibit 455 before you left Stanford in July of</p> <p>8 1986?</p> <p>9 A. I believe so.</p> <p>10 Q. Do you remember if you obtained the</p> <p>11 document marked as Exhibit 455 directly from</p> <p>12 Mr. Yaeger?</p> <p>13 A. I have no memory of now I actually</p> <p>14 obtained this document.</p> <p>15 Q. Were documents -- strike that.</p> <p>16 Was the document marked as Exhibit 455</p> <p>17 available for you to get, besides going directly</p> <p>18 through Mr. Yaeger?</p> <p>19 MR. NEUKOM: Objection. Vague.</p> <p>20 THE WITNESS: I don't have a memory of how</p> <p>21 I actually obtained it. I -- these -- such</p> <p>22 documents were certainly easily obtainable at</p> <p>23 Stanford University.</p> <p>24 BY MR. WONG:</p> <p>25 Q. When you say such documents like</p>
<p>1 (Exhibit 455 marked for identification.)</p> <p>2 BY MR. WONG:</p> <p>3 Q. The court reporter has marked as</p> <p>4 Exhibit 455 a document bearing control numbers KL</p> <p>5 00000001 to 93.</p> <p>6 Mr. Lougheed, do you recognize the</p> <p>7 document marked as Exhibit 455?</p> <p>8 A. I recognize what it is. I don't believe I</p> <p>9 have read it before.</p> <p>10 Q. Okay. You say you recognize what it is.</p> <p>11 What is the document marked as Exhibit 455?</p> <p>12 A. It appears to be a reference manual for</p> <p>13 Bill Yaeger's software that he developed under the</p> <p>14 SUMEX project.</p> <p>15 Q. And this was produced from your personal</p> <p>16 files, correct, Exhibit 455?</p> <p>17 A. Yes.</p> <p>18 Q. Why did you have the document marked as</p> <p>19 Exhibit 455 in your personal files?</p> <p>20 A. It seemed to me to be of -- whenever I</p> <p>21 obtained it, it seemed to me to be of at least</p> <p>22 historical interest.</p> <p>23 Q. Would you have obtained the document</p> <p>24 marked as Exhibit 455 before you left Stanford in</p> <p>25 July of 1986?</p>	<p>1 Exhibit 455 were easily obtainable at Stanford</p> <p>2 University, how were these documents easily</p> <p>3 obtainable?</p> <p>4 A. It was a community where -- it was a</p> <p>5 research community where research reports, if you</p> <p>6 wanted them, you could -- you could ask around for</p> <p>7 them.</p> <p>8 Q. Now, you said you weren't sure if you had</p> <p>9 read the document marked as Exhibit 455, correct?</p> <p>10 A. I have no --</p> <p>11 MR. NEUKOM: Objection. Misstates prior</p> <p>12 testimony.</p> <p>13 THE WITNESS: I have no memory of reading</p> <p>14 this before. I may have. I may not have. I have</p> <p>15 no memory.</p> <p>16 BY MR. WONG:</p> <p>17 Q. Were you familiar with the functionality</p> <p>18 of the SUMEX software that Mr. Yaeger wrote while at</p> <p>19 Stanford?</p> <p>20 A. Yes.</p> <p>21 Q. Were you familiar with how the command</p> <p>22 parser worked in the SUMEX software that Mr. Yaeger</p> <p>23 wrote?</p> <p>24 A. At one point I certainly was.</p> <p>25 Q. Were you familiar with how the command</p>

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11 (Pages 227 - 230)

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<p>1 Q. And was Exhibit 456 a document that was in 2 your personal files?</p> <p>3 A. Yes, it was.</p> <p>4 Q. Okay. And why did you have this CHAOS net 5 document marked as Exhibit 456 in your personal 6 files?</p> <p>7 A. Because in 1987, at the request of some 8 customers, we added CHAOS net to the Cisco router 9 software. A consultant named Eric Weaver actually 10 did the -- I believe it was Eric Weaver did the 11 actual implementation in the Cisco software. He was 12 a contractor for us.</p> <p>13 Q. Okay. So your possession of the document 14 marked as Exhibit 456 was in connection with work 15 that Cisco did with respect to CHAOS net?</p> <p>16 A. Correct. I suspect this was the document 17 I handed him to say I want this in the router.</p> <p>18 Q. Did you ever read the document marked as 19 Exhibit 456 before you handed it to Mr. Weaver?</p> <p>20 A. I may have.</p> <p>21 Q. Can you turn to page 17 of Exhibit 456. 22 The control number at the bottom ends in 206. Let 23 me know when you're there, please.</p> <p>24 A. Okay. I'm on page -- page 17 of the CHAOS 25 net document.</p>	<p>1 Q. Did you come up with the term "flow 2 control"?</p> <p>3 A. No. You're doing a bit of random word 4 matching.</p> <p>5 Q. Yes. Random questioning is definitely my 6 style.</p> <p>7 You can set that document aside.</p> <p>8 MR. WONG: Let's mark this one as the next 9 exhibit, please.</p> <p>10 (Exhibit 457 marked for identification.)</p> <p>11 BY MR. WONG:</p> <p>12 Q. The court reporter has marked as 13 Exhibit 457 a document bearing control numbers 14 KL-00000564 to 654.</p> <p>15 And Mr. Lougheed, take your time to look 16 at Exhibit 457. But my question to you is, do you 17 recognize the document marked as Exhibit 457?</p> <p>18 A. There is no title to this document, other 19 than Chapter 1. It appears to be -- have to do with 20 DEC-20 hardware. So I don't -- I do not recognize 21 where this document came from.</p> <p>22 Q. Okay. I'll represent to you that this 23 document was produced to us without a cover page. 24 So this is -- this is the document that was produced 25 to us.</p>
<p>Page 239</p> <p>1 Q. And the first -- strike that. At the top 2 of this page ending in control numbers 206 of 3 Exhibit 456, it says "3.8 Flow and Error Control." <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Do you understand what flow control is, 7 Mr. Lougheed?</p> <p>8 A. In a general sense.</p> <p>9 Q. Can you please explain to me what flow 10 control means in a general sense.</p> <p>11 A. How you put packets onto the network and 12 what speed, rate that you -- and under what 13 conditions you put the packets onto the network. <p>14 That's my general understanding. I'm not sure -- 15 every protocol has its own nuances, so -- and I have 16 not read the rest of this page, so . . .</p> <p>17 Q. Understood.</p> <p>18 When you say every protocol has its own 19 nuances, do you mean that every protocol has its own 20 nuances for flow control?</p> <p>21 A. Pretty much.</p> <p>22 Q. When was -- strike that.</p> <p>23 Do you know when the term "flow control" 24 was first used in the networking industry?</p> <p>25 A. No.</p> </p></p>	<p>Page 241</p> <p>1 Do you have any doubt that this document 2 was in your personal files that you handed over to 3 Cisco's counsel?</p> <p>4 A. I don't doubt that.</p> <p>5 Q. Do you know when you came into possession 6 of the TOPS-20 document marked as Exhibit 457?</p> <p>7 A. Probably while I was working at Stanford. 8 if this indeed came from the contents of the boxes 9 in my garage.</p> <p>10 Q. Mr. Lougheed, did you give the documents 11 that were in your garage to your counsel after the 12 first deposition took place?</p> <p>13 A. There were -- yes.</p> <p>14 Q. Was there anything else besides documents 15 that were stored in your garage that you provided to 16 your counsel after the first deposition of you?</p> <p>17 Anything besides paper documents that you found in 18 your garage? Did you provide any other documents to 19 your counsel after your first deposition?</p> <p>20 A. Just paper documents.</p> <p>21 Q. Did you have -- strike that.</p> <p>22 While you were working at Stanford and 23 before you left to join Cisco in July of 1986, did 24 you have TOPS-20 user manuals in your possession?</p> <p>25 MR. NEUKOM: Objection. Vague.</p>

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14 (Pages 239 - 242)

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<p>1 A. Yes.</p> <p>2 Q. Do you know when a spanning tree is?</p> <p>3 A. Yes, I do.</p> <p>4 Q. What is a spanning tree?</p> <p>5 A. A spanning tree is a --</p> <p>6 MR. NEUKOM: Objection. Calls for opinion.</p> <p>8 THE WITNESS: It's a graph imposed on the network to ensure that packets that are being bridged do not get into loops as they are being transmitted by bridges.</p> <p>12 BY MR. WONG:</p> <p>13 Q. And is that the function that is served by a spanning tree?</p> <p>15 MR. NEUKOM: Objection. Calls for opinion testimony, and the question is phrased in the hypothetical or abstract.</p> <p>18 BY MR. WONG:</p> <p>19 Q. Let me ask the question differently, Mr. Lougheed.</p> <p>21 What is the function served by a spanning tree?</p> <p>23 MR. NEUKOM: Same objections.</p> <p>24 THE WITNESS: The spanning tree is essentially a data structure -- in effect is a data</p>	<p>1 Q. And the Stanford low overhead time-sharing, is that also -- does that also use the acronym LOTS?</p> <p>4 A. Yes.</p> <p>5 Q. If you turn to the first page of Exhibit 459, the Bates number ends in 1700. Let me know when you're there.</p> <p>8 A. Okay.</p> <p>9 Q. There is a -- I guess this is an e-mail at the top of the page ending in Bates Nos. 1700, correct? Is that an e-mail at the top of the page ending in Bates No. 1700?</p> <p>13 A. Yeah.</p> <p>14 Q. And there's a CC there to b.bombadil? Do you see that?</p> <p>16 A. Right.</p> <p>17 Q. Is that your e-mail address?</p> <p>18 A. That was my -- that was my user ID at the LOTS computer facility.</p> <p>20 Q. Okay. So where "b.bombadil" appears in Exhibit 459, that is your user ID, correct?</p> <p>22 A. Correct.</p> <p>23 Q. What does the "B" stand for for the b.bombadil?</p> <p>25 A. So in the -- in 1976, when they set up the</p>
<p>Page 251</p> <p>1 structure that allows bridges and other things that forward at the MAC layer -- it tells them which ports they should not forward packets on.</p> <p>4 BY MR. WONG:</p> <p>5 Q. When did first hear of the term "spanning tree"?</p> <p>7 A. During my -- during Cisco. Probably late '80s.</p> <p>9 Q. You can set that document aside.</p> <p>10 MR. WONG: Let's have that marked as the next exhibit, please.</p> <p>12 (Exhibit 459 marked for identification.)</p> <p>13 BY MR. WONG:</p> <p>14 Q. The court reporter has marked as Exhibit 459 a document bearing control numbers KL-00001699 to 1763.</p> <p>17 Mr. Lougheed, please take a moment to look at Exhibit 459 and let me know -- well, and my first question to you will be, do you recognize Exhibit 459?</p> <p>21 A. Yes.</p> <p>22 Q. And what is Exhibit 459?</p> <p>23 A. It's a computer listing of my e-mail while I was working at the Stanford low overhead time-sharing.</p>	<p>Page 253</p> <p>1 student computing facility, they needed to support several thousand users, and the operating system had a limitation that it could only support some number smaller than the total number of students. So what they did was they created top level directories A through Z, and then the dot indicates that there is a subdirectory or, you know, a subuser of that. So everybody's user ID had the initial letter, dot username.</p> <p>10 Q. Understood. I was wondering why it wasn't T. Bombadil. But I'm assuming the Bombidel refers to --</p> <p>13 A. The Tolkien character.</p> <p>14 Q. Yes.</p> <p>15 THE REPORTER: To what character?</p> <p>16 THE WITNESS: Tolkien. As in Lord of the Rings. Or actually, as in the Hobbit. No.</p> <p>18 Actually, it's Lord of the Rings.</p> <p>19 BY MR. WONG:</p> <p>20 Q. I think it's Lord of the Rings.</p> <p>21 A. What can I say? I was an undergraduate. I was stuck with that same username.</p> <p>23 Q. I would have chosen Radagast.</p> <p>24 Are you aware of the e-mail alias at Cisco called Clueless@Cisco.com?</p>

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17 (Pages 251 - 254)

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1 BY MR. WONG:

2 Q. Can you turn back to Exhibit 460, please?
3 A. Yes.

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21 (Pages 267 - 270)

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22 (Pages 271 - 274)

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23 (Pages 275 - 278)

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24 (Pages 279 - 282)

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25 (Pages 283 - 286)

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27 (Pages 291 - 294)

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2 Q. When did your opinion about copyright law
 3 change from the opinion that you had in 1986?

4 A. Late '80s.

5 Q. What precipitated your change in viewpoint
 6 regarding copyright law in the late '80s?

7 MR. NEUKOM: Objection. Vague.

8 THE WITNESS: Deeper understanding of the
 9 issues involved and how actually -- how it was
 10 treated, how it was regarded within the industry. I
 11 had actually had some industry experience by that
 12 time.

13 BY MR. WONG:

14 Q. Are you familiar with the Juniper JUNOS
 15 operating system?

16 A. Very slightly.

17 Q. Do you understand that the JUNOS operating
 18 system has a command-line interface?

19 A. Yes.

20 Q. Do you believe that the JUNOS command-line
 21 interface is protected by copyright?

22 MR. NEUKOM: Objection. Calls for a legal
 23 conclusion and opinion testimony right on its face.

24 BY MR. WONG:

25 Q. Please answer.

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1 A. I believe their set of command expressions
 2 that form the command-line interface are indeed --
 3 and I am not a lawyer, but I believe it is -- it is
 4 protected intellectual property.

5 Q. Do you believe it's okay if Cisco copied
 6 the JUNOS set of command expressions and used it in
 7 one of their products?

8 MR. NEUKOM: Objection. This is a
 9 hypothetical. It calls for a legal conclusion. It
 10 calls for opinion testimony. And this witness is
 11 here for his second day of deposition. This -- my
 12 patience is starting to run thin with this patently,
 13 patently inadmissible line of questioning.

14 BY MR. WONG:

15 Q. Please answer.

16 A. I'm sorry. What was the question again?

17 Q. Do you believe it's okay if Cisco copied
 18 the JUNOS set of command expressions and used it in
 19 one of Cisco's products?

20 A. It would not be proper and it would be
 21 extremely stupid. I can't imagine why we would do
 22 that.

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[REDACTED]

[REDACTED]

17 MR. WONG: Let's mark this one as the next
 18 in order.

19 (Exhibit 463 marked for identification.)

20 BY MR. WONG:

21 Q. The court reporter has marked Exhibit 463.
 22 a document bearing control number CSI-CLI-01124245.

23 Mr. Lougheed, please take a moment to look
 24 at Exhibit 463 and let me know when you're done.

25 A. Okay. I've read it.

28 (Pages 295 - 298)

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<p>1 BY MR. WONG: 2 Q. Can access lists be associated with 3 different routing protocols? 4 A. Yes. 5 MR. NEUKOM: Objection. Calls for opinion 6 testimony. 7 BY MR. WONG: 8 Q. Yes, right? 9 A. We have implemented such in the past. 10 Q. What other routing protocols have -- for 11 what -- strike that. 12 For what other routing protocols have you 13 implemented access lists? 14 A. I'll have to think carefully about this. 15 XNS, Banyan VINES, I believe. I'd have to go refer 16 to the Cisco documentation, but I know that we did 17 have access lists for a number of network protocols. 18 MR. WONG: Just for the court reporter's 19 knowledge, did you say Banyan VINES? 20 THE WITNESS: Banyan VINES. B-A-N-Y-A-N, 21 and then VINES, as in -- 22 MR. NEUKOM: Red vines. 23 THE WITNESS: As in red vines. Okay. 24 BY MR. WONG: 25 Q. As in a banyan tree?</p>	Page 315	<p>1 Q. When you added the "ip access-group" 2 command, did you consider using a different term 3 other than "IP"? 4 A. I do not recall whether we had switched 5 everything to the IP's hierarchy then. I'd have to 6 refer to the documentation to see whether or not we 7 actually had an IP hierarchy or whether we assumed 8 everything was IP. 9 Q. I understand. If there had been an IP 10 hierarchy already implemented at the time you added 11 the "ip access-group" command would you have 12 considered any other term besides "IP" in the "ip 13 access-group" command? 14 MR. NEUKOM: Objection. Calls for 15 speculation, and the question poses a hypothetical. 16 THE WITNESS: I could have perhaps 17 inverted the hierarchy. I'm sorry. The question is 18 again? 19 BY MR. WONG: 20 Q. You testified that you weren't sure 21 whether or not there had been an IP hierarchy 22 implemented at the time you added this "ip 23 access-group" command? 24 A. Right. 25 Q. Assuming you checked and there was already</p>
<p>1 A. A banyan tree. 2 Q. So the "IP" word in the "ip access-group" 3 command is meant to indicate that the access groups 4 are for the IP protocol, correct? 5 A. It is an indication that that command 6 applies to the IP -- into the IP hierarchy of the 7 interface command. 8 Q. So if you were implementing access groups 9 for the XNS protocol, it would be "XNS 10 access-group," right? 11 A. Yes. 12 Q. Have you had -- strike that. 13 Did you come up with the term "access 14 group" in 1989? 15 A. That was the command expression I chose. 16 Q. Well, was it the first -- had you heard of 17 the term "access group" at the time that you added 18 this command to the Cisco IOS? 19 A. No, I hadn't. I had previously 20 implemented an "access class" command associated -- 21 for associating an access list with a terminal line. 22 And I needed something to associate it with an 23 interface. And I was -- I just needed something 24 different. And that was the best I could come up 25 with that day.</p>	Page 316	<p>1 an IP hierarchy in existence when you added the "ip 2 access-group" command, would you have changed the 3 first word to be anything other than "IP"? 4 A. Given that I had made the -- made the 5 choice of "IP" as the keyword indicating Internet 6 protocol-related stuff, I would have felt 7 constrained to use that as the leading keyword. 8 Otherwise, it would be a seemingly asymmetric 9 construction in the hierarchy. 10 Q. How long did it take you to come up with 11 the ""ip access-group"" command syntax? 12 A. Not very long. All I needed was some sort 13 of keyword that had "access" in it and something 14 after it to distinguish it between class and list. 15 And as I said earlier, that was the best I could 16 come up with that day. I wasn't necessarily 17 terribly happy about it. It was not a terribly 18 descriptive command, as far as I was concerned. 19 Q. When you say "not very long," are you 20 talking about a matter of minutes? 21 A. Yep. 22 Q. How long -- did you write the source code 23 for the "ip access-group" command? 24 A. For the original, yes. 25 Q. How long did it take you to write the</p>

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<p>1 source code for the original "ip access-group" 2 command? 3 A. So writing it for that command would have 4 been part of writing the entire functionality of 5 putting access lists onto interfaces, I guess on the 6 order of a day. 7 Q. If you turn to page 20 on Exhibit 464. 8 Let me know when you're there. 9 A. Okay. I'm on page 20. 10 Q. The second to the top command is 11 "mac-address." 12 Do you see that? 13 A. Uh-huh. 14 Q. Are you the originator of the 15 "mac-address" command? 16 A. Yes. 17 Q. How do you know that you're the originator 18 of the "mac-address" command? 19 A. I remember the problem that I was solving 20 that I needed that sort of functionality. 21 Q. What was the problem that you were trying 22 to solve by the "mac-address" command? 23 A. I needed to send packets on a serial line 24 that actually -- which a serial line does not have 25 MAC addresses, but I needed to somehow get a MAC</p>	<p>1 But to your knowledge, MAC is an 2 industry-standard term defined either on OSI or the 3 IEEE? 4 MR. NEUKOM: Objection. Vague. Calls for 5 opinion. 6 BY MR. WONG: 7 Q. Correct? 8 A. I believe at least IEEE has used the term 9 "MAC address." 10 Q. And at the time that you added the 11 "mac-address" command to Cisco IOS, had the IEEE, to 12 your knowledge, already started using the term "MAC 13 address"?</p> <p>14 A. Yes. 15 Q. How long did it take you -- strike that. 16 How long did it take you to come up with 17 the syntax for the "mac-address" command? 18 A. I don't remember how long. I suspect it 19 was less than a day. 20 Q. Why do you say that? 21 A. I tend to make decisions quickly. 22 Q. How long did it take you to write the 23 source code for the functionality associated with 24 the "mac-address" command? 25 A. It was probably the same day.</p>
<p>Page 319</p> <p>1 address associated with that particular serial line. 2 Q. Was that related to a client request? 3 A. Yes. I don't remember the exact customer 4 or the details to it. 5 Q. Do you remember if the customer suggested 6 you calling the command "mac-address"? 7 A. I don't remember if the customer suggested 8 anything in that particular -- in that particular 9 instance. 10 Q. And is the function of the "mac-address" 11 command to associate a MAC address with a particular 12 serial line? 13 A. It could be a serial line. It could be 14 actually any interface. It would depend what 15 protocols are running across the interface as to 16 what it would do. 17 Q. And what is -- strike that. 18 The MAC part of the words "mac-address," 19 that refers to media access control, correct? 20 A. Yes. 21 Q. And we talked about that media access 22 control being a layer defined by OSI, correct? 23 A. I think we were wondering whether it was 24 OSI or IEEE. 25 Q. Thank you.</p>	<p>Page 321</p> <p>1 Q. Did you ever consider a command syntax 2 without the hyphen between "mac" and "address"? 3 A. Stylistically, I prefer dashes as opposed 4 to cramming the words together. I like commands 5 that have an English-like flavor to them. And I 6 detest periods in commands and underscores. So this 7 was . . . 8 Q. Did you ever consider two -- let me strike 9 that. 10 Do you know what a token is in the context 11 of a command? 12 A. Yes. 13 Q. Did you ever consider a command syntax of 14 "mac address"? 15 A. I don't recall if I did. 16 Q. What impact would it have, if any, on the 17 user if -- strike that. 18 Would the CLI behave differently if the 19 command was "mac address," as opposed to 20 "mac-address"? 21 MR. NEUKOM: Objection. Hypothetical 22 question. 23 THE WITNESS: Well, it behaves differently 24 in that instead of one token, there's two tokens. 25 So there would be that.</p>

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1 but for different protocols, then it was a very easy
 2 generalization.
 3 Q. So a matter of minutes?
 4 A. Once the decision had been made to do
 5 that, yes.
 6 Q. What do you think is creative about the
 7 command "show ip route"?
 8 MR. NEUKOM: Objection. Calls for opinion
 9 and legal conclusion.
 10 THE WITNESS: So for the "route" command,
 11 I originally needed some way of saying -- what I
 12 needed was a way of indicating to the software that
 13 if I had a packet destined for a particular network,
 14 which is the first argument, that I send it to a
 15 particular IP address, which is the IP address of a
 16 router. And one of those list of network and router
 17 pairs may actually be the default, if I didn't find
 18 a network mentioned anywhere and couldn't figure out
 19 what to do with it. Otherwise, send it to this
 20 particular router or gateway. Those are the pieces
 21 of information that I needed, and I just -- I chose
 22 the name "route." And "IP route" came along
 23 afterwards.
 24 BY MR. WONG:
 25 Q. Are you the originator of the "show

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1 BY MR. WONG:
 2 Q. The court reporter has marked Exhibit 467,
 3 a document bearing control numbers
 4 ARISTANDCA00032440 to 32812.
 5 And my only question for you,
 6 Mr. Lougheed, on this document marked as Exhibit 467
 7 is, is this one of the ANSI/IEEE standards that
 8 defines a spanning tree?
 9 MR. NEUKOM: Objection. Vague. Also
 10 calls for opinion testimony. And to the extent that
 11 you can find a way to answer this question insofar
 12 as the task is an assessment of a document which is
 13 double-sided, still over an inch thick, and appears
 14 to have --
 15 THE WITNESS: 10-point font.
 16 MR. NEUKOM: And appears to have about 350
 17 pages. And that's right, size 6 font, size 8 font.
 18 It's an unreasonable question on its face.
 19 BY MR. WONG:
 20 Q. Let me ask it this way, Mr. Lougheed.
 21 At the top of page 467, top right, you see
 22 it says "1998 edition," right?
 23 A. Yes.
 24 Q. Have you seen IEEE/ANSI standards before?
 25 A. Yes.

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1 spanning-tree" command?
 2 A. Yes, I am.
 3 Q. What is a spanning tree?
 4 A. My testimony earlier in the day addresses
 5 that question.
 6 Q. So thank you.
 7 And your explanation of what is a spanning
 8 tree earlier in today's deposition would be the same
 9 for my question regarding the "show spanning-tree"
 10 command; is that correct?
 11 A. Right.
 12 Q. And what functionality does the "show
 13 spanning-tree" command perform?
 14 A. It displayed global parameters having to
 15 do with the spanning tree and interface-specific
 16 parameters having to do with the spanning tree on
 17 the box.
 18 Q. And the term "spanning tree," you didn't
 19 come up with that, right, Mr. Lougheed?
 20 A. No, I didn't.
 21 Q. The term "spanning tree" is used in
 22 ANSI/IEEE standards, correct?
 23 A. Yes. To my knowledge.
 24 (Exhibit 467 marked for identification.)
 25 ////

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1 Q. From the first page of Exhibit 467, do you
 2 have any reason to doubt that this is an IEEE
 3 standard?
 4 MR. NEUKOM: Objection. Vague. Calls for
 5 opinion testimony. And lack of foundation.
 6 THE WITNESS: I'm willing to accept the
 7 assertion that it's an IEEE standard.
 8 BY MR. WONG:
 9 Q. Had you ever reviewed the ANSI/IEEE
 10 standard 802.1D 1998 edition?
 11 A. I have never reviewed the 1998 edition of
 12 IEEE 802.1D.
 13 Q. Have you ever reviewed any other editions
 14 of 802.1D?
 15 A. A much earlier version.
 16 Q. In that much earlier -- you can set that
 17 down, Mr. Lougheed.
 18 In that earlier version of 802.1D, do you
 19 recall whether the standard used the term "spanning
 20 tree"?

21 MR. NEUKOM: Objection. Vague. I'm
 22 pretty sure if that document uses the word
 23 "standard" the way the document before uses the word
 24 "standard," the document presupposes a
 25 mischaracterization of the document.

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37 (Pages 331 - 334)

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1 BY MR. WONG:
 2 Q. Please answer.
 3 A. What's your question again?
 4 Q. Sure. In the earlier version of the
 5 802.1D standard that you have reviewed -- strike
 6 that.
 7 You just testified that you had reviewed
 8 an earlier version of the 802.1D standard earlier
 9 than the 1998 edition, right?
 10 A. Right.
 11 Q. And do you recall approximately what year
 12 that version of the 802.1D standard was?
 13 A. Not the year. The year I would have
 14 reviewed something like that would have been '87 or
 15 '88.
 16 Q. And in your review of that version of the
 17 802.1D standard that you would have reviewed in 1987
 18 or '88, do you recall whether the word "spanning
 19 tree" existed in that document?
 20 A. No, I don't recall if that word appeared
 21 there.
 22 Q. But when you came up with the "show
 23 spanning-tree" command for Cisco IOS, had you heard
 24 of the term "spanning tree" before that?
 25 A. Yes, I had.

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1 MR. NEUKOM: Objection. Calls for opinion
 2 testimony.
 3 THE WITNESS: I don't understand what you
 4 mean by the word "creative."
 5 BY MR. WONG:
 6 Q. Do you believe that it took any degree of
 7 creativity to come up with the command "show
 8 spanning-tree"?"
 9 MR. NEUKOM: Same objection. Calls for
 10 opinion testimony. Also calls for a legal
 11 conclusion.
 12 But notwithstanding my objections, you
 13 should still try to answer these questions to the
 14 best of your ability.
 15 THE WITNESS: And the question is?
 16 BY MR. WONG:
 17 Q. Do you believe that it took any creativity
 18 to come up with the command "show spanning-tree"?"
 19 A. I do believe that it shows a degree of
 20 creativity.
 21 Q. And describe -- go ahead.
 22 A. I mean --
 23 Q. Were you done with your answer?
 24 A. Yes.
 25 Q. And what is creative about the command

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1 Q. And why did you choose to put a hyphen
 2 between the words "spanning" and "tree"?"
 3 A. Because I like English phrases and I like
 4 separating them with dashes.
 5 Q. Why did you --
 6 A. And I saw -- go ahead.
 7 Q. No, no. I interrupted you, Mr. Lougheed.
 8 Go ahead.
 9 A. And I had no concept or no belief at the
 10 time that I would need to turn that into a
 11 hierarchy.
 12 Q. And when you say -- refer to a need to
 13 turn it into a hierarchy, are you referring to the
 14 option of using a space instead of a hyphen in
 15 between the word "spanning" and "tree"?"
 16 A. Yes.
 17 Q. How long did it take for you to come up
 18 with the command "show spanning-tree," the syntax?
 19 A. The syntax? Once I had the protocol
 20 working, wouldn't have been very long.
 21 Q. Matter of minutes?
 22 A. Less than a day.
 23 Q. Do you think the command "show
 24 spanning-tree" is creative?
 25 A. I don't understand.

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1 "show spanning-tree"?"
 2 MR. NEUKOM: Objection. Calls for a legal
 3 conclusion and calls for opinion testimony.
 4 THE WITNESS: And I just -- I'm not sure
 5 what the hell you mean by "creative."
 6 BY MR. WONG:
 7 Q. Have you -- do you know what the word
 8 "creative" means?
 9 What do you understand the word "creative"
 10 to mean? The question is, what do you understand
 11 the word "creative" to mean?
 12 MR. NEUKOM: Objection to form.
 13 THE WITNESS: It's the ability to create
 14 things. And I was creating a command expression to
 15 monitor a piece of complex software.
 16 What do you mean by "creative"?"
 17 BY MR. WONG:
 18 Q. I'm going to use your definition of
 19 creative here, Mr. Lougheed. Under your definition
 20 of "creative," what's creative about the "show
 21 spanning-tree" command?
 22 MR. NEUKOM: Objection. Calls for opinion
 23 testimony and calls for a legal conclusion.
 24 THE WITNESS: Writing any piece of
 25 software involves some degree of creativity. It may

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38 (Pages 335 - 338)

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<p>1 Q. And actually, if you look on that same 2 page, page 42 of Exhibit 464, the command right 3 above it is "timers basic (RIP)."</p> <p>4 Do you see that?</p> <p>5 A. Uh-huh.</p> <p>6 Q. And you are also the originator of that 7 command, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And the date of earliest known document 10 for that command is September 14th, 1989.</p> <p>11 Do you see that?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Is that -- strike that.</p> <p>14 Did you work on different "timers" 15 commands at the -- roughly the same time period for 16 Cisco IOS?</p> <p>17 MR. NEUKOM: Objection. Vague and 18 compound.</p> <p>19 BY MR. WONG:</p> <p>20 Q. Let me ask specifically, actually, about 21 these.</p> <p>22 Did you work on the "timers basic" command 23 and the "timers bgp" command at the same time?</p> <p>24 A. I don't know if it was the same time, but 25 it was certainly in the late '80s.</p>	<p>1 Q. Do you have to --</p> <p>2 A. It's either "routing-protocol" or 3 "router." The command form changed in that time 4 frame. But it's the same -- it's the same concept.</p> <p>5 Q. So just so I understand, Mr. Lougheed, 6 before a user at the command-line interface types in 7 "timers bgp" as a command, before that, the user has 8 to type in a routing protocol command?</p> <p>9 A. Right. For example, "router bgp," 10 "timers" plus the number, and then you would say, 11 you know, "bgp timers" or timers bgp."</p> <p>12 Q. Got it.</p> <p>13 And BGP refers to border gateway protocol, 14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And we discussed border gateway protocol 17 during your first deposition. Remember that?</p> <p>18 A. That correct.</p> <p>19 Q. And as the 1989, BGP was already in IETF 20 industry standards, correct?</p> <p>21 A. No.</p> <p>22 Q. At what stage was -- strike that.</p> <p>23 Today BGP is specified in IETF industry 24 standards, correct?</p> <p>25 A. It is described in an RFC that is a</p>
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<p>1 A. Correct.</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p>1 hierarchy of commands that are used in that command mode.</p> <p>2 mode.</p> <p>3 Q. Okay. Well, my question is, did you</p> <p>4 create the "user exec" command mode in Cisco IOS?</p> <p>5 MR. NEUKOM: Objection. Asked and</p> <p>6 answered.</p> <p>7 THE WITNESS: I'm sorry. The question</p> <p>8 again is?</p> <p>9 BY MR. WONG:</p> <p>10 Q. Did you create the "user exec" command mode in Cisco IOS?</p> <p>11 MR. NEUKOM: Objection. Asked and</p> <p>12 answered.</p> <p>13 THE WITNESS: I was the person responsible</p> <p>14 for the look and feel of the "exec" command mode.</p> <p>15 BY MR. WONG:</p> <p>16 Q. But when you say "exec" command mode, is</p> <p>17 that the same thing as the "user exec" command mode?</p> <p>18 A. Yes. I think we're talking about the same</p> <p>19 thing.</p> <p>20 Q. I think we are too.</p> <p>21 Is there a "privilege exec" command mode</p> <p>22 in Cisco IOS?</p> <p>23 A. Yes.</p> <p>24 Q. And what is the difference between the</p>
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<p>1 configuration" command mode in Cisco IOS?</p> <p>2 A. In the 1985, 1986 time frame.</p> <p>3 Q. And why do you say the 1985, 1986 time</p> <p>4 frame?</p> <p>5 A. Because that's -- I don't have any further</p> <p>6 precision.</p> <p>7 Q. Let's mark this as the next exhibit. I'm</p> <p>8 sorry. What number are we on?</p> <p>9 THE REPORTER: 476.</p> <p>10 (Exhibit 476 marked for identification.)</p> <p>11 BY MR. WONG:</p> <p>12 Q. The court reporter has marked Exhibit 476</p> <p>13 a document bearing control numbers CSI-CLI-00358622</p> <p>14 to 358654.</p> <p>15 Mr. Lougheed, before I ask you about this</p> <p>16 document, this is a document that Cisco has</p> <p>17 identified to Arista as the first documentation of</p> <p>18 the command modes and prompts at issue in this case.</p> <p>19 So you know, whether that's true or not, I don't</p> <p>20 know, but I'm just representing to you that that is</p> <p>21 what Cisco has represented to us in discovery.</p> <p>22 Can you please take a look at Exhibit 476</p> <p>23 and let me know if you recognize Exhibit 476.</p> <p>24 A. Yes, I recognize it.</p> <p>25 Q. And what is Exhibit 476?</p>	<p>1 BY MR. WONG:</p> <p>2 Q. I'll go one by one then.</p> <p>3 Mr. Lougheed, do you --</p> <p>4 MR. NEUKOM: Why? I don't mean to be a</p> <p>5 pain, but it's 4:20 in the afternoon. This witness</p> <p>6 is on his second day of deposition. If it's in</p> <p>7 there, you can show it at trial. If it is or it</p> <p>8 isn't, we're keeping Mr. Lougheed here so that you</p> <p>9 can walk him through to have him admit the contents</p> <p>10 of a document or not.</p> <p>11 MR. WONG: Okay.</p> <p>12 MR. NEUKOM: It just seems a little bit of</p> <p>13 a pain for this witness who is being very</p> <p>14 cooperative.</p> <p>15 MR. WONG: Let's move on to the "interface</p> <p>16 configuration" command mode.</p> <p>17 BY MR. WONG:</p> <p>18 Q. Mr. Lougheed, do you know what the</p> <p>19 "interface configuration" command mode is?</p> <p>20 A. Yes.</p> <p>21 Q. What is the "interface configuration"</p> <p>22 command mode?</p> <p>23 A. It is a -- it's a mode entered by the --</p> <p>24 starts out with the command interface, specifies the</p> <p>25 name of the interface, and then on subsequent lines</p>
<p>Page 383</p> <p>1 A. It's the first -- it's the first user</p> <p>2 manual for the Cisco software.</p> <p>3 Q. Okay. And was the user manual in --</p> <p>4 strike that.</p> <p>5 So this -- Exhibit 476 says "Version 5.2,"</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. Was that the first version of Cisco's</p> <p>9 ASM/AGS software that was sold to the public?</p> <p>10 A. Yes.</p> <p>11 Q. And was the user manual and configuration</p> <p>12 guide for the Cisco Systems ASM/AGS marked here as</p> <p>13 Exhibit 476 provided to customers of Cisco?</p> <p>14 MR. NEUKOM: Objection. Lack of</p> <p>15 foundation.</p> <p>16 THE WITNESS: We shipped a copy with each</p> <p>17 of the earlier units.</p> <p>18 BY MR. WONG:</p> <p>19 Q. And you know that from personal knowledge?</p> <p>20 A. Yes.</p> <p>21 Q. Do you agree, Mr. Lougheed, that the</p> <p>22 command modes that we have been discussing today are</p> <p>23 documented in Exhibit 476?</p> <p>24 MR. NEUKOM: Objection. The document</p> <p>25 speaks for itself. And objection, compound.</p>	<p>Page 385</p> <p>1 there are subcommands that refer to the -- there are</p> <p>2 subsequent configuration commands that use that</p> <p>3 first interface as a reference to what -- what</p> <p>4 interface is actually being configured.</p> <p>5 Q. And we're talking about the "interface</p> <p>6 configuration" command mode in Cisco IOS?</p> <p>7 A. In the current Cisco IOS, yes.</p> <p>8 Q. And are you the creator of the "interface</p> <p>9 configuration" command mode in Cisco IOS?</p> <p>10 A. Yes.</p> <p>11 Q. And when was that created?</p> <p>12 A. After I left Stanford.</p> <p>13 Q. Do you know approximately when in terms of</p> <p>14 the year that you created the "interface</p> <p>15 configuration" command mode?</p> <p>16 A. '86, early '87.</p> <p>17 Q. What's the command prompt for the</p> <p>18 "interface configuration" command mode in Cisco IOS?</p> <p>19 A. I don't remember what the modern one is.</p> <p>20 There was none in the early versions.</p> <p>21 Q. And what was the command prompt for the</p> <p>22 "exec" or "user exec" command mode for Cisco IOS?</p> <p>23 A. The name of the host. If it didn't -- if</p> <p>24 there was -- either gateway angle bracket, which was</p> <p>25 the default, or if it could figure out its host</p>

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1 name, it would have the host name and an angle
 2 bracket.
 3 Q. And was the angle bracket also the prompt
 4 used -- strike that.
 5 Was the angle bracket also a prompt used
 6 in the EE-CF software at Stanford?
 7 A. Yes.
 8 Q. Do you know if the angle bracket was used
 9 in the SUMEX software at Stanford?
 10 A. I don't recall.
 11 Q. If you open up Exhibit 36, Mr. Lougheed.
 12 A. Okay. 36?
 13 Q. Yes, Exhibit 36. It's a manual. It's the
 14 manual we were just looking at. Or actually not.
 15 It's a different manual.
 16 A. No. It documents -- no. They're
 17 different manuals.
 18 Q. Yes, I'm sorry. If you have Exhibit 36,
 19 that's fine.
 20 A. Yes, I've got it.
 21 Q. But I meant Exhibit 476. I'm confusing
 22 myself now.
 23 A. Okay.
 24 Q. If you turn to page 2 of Exhibit 476. Let
 25 me know when you're there.

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1 A. Yes.
 2 Q. Now, the next line says, "Sierra is the
 3 name of the time-sharing computer."
 4 Do you see that?
 5 A. Yes.
 6 Q. That Sierra is referring to the same
 7 Sierra that's used at Stanford, correct?
 8 A. In this context, Sierra is referring to a
 9 generic time-sharing computer.
 10 Q. Can you open up Exhibit 36, please,
 11 Mr. Lougheed? And you can stay on that page of
 12 Exhibit 476. But if you open up Exhibit 36 to
 13 page 2. And the control number at the bottom is
 14 CSI-CLI-01315527. Let me know when you're there.
 15 A. I'm there.
 16 Q. Under section 2-1, "Basic Ethertip Use,"
 17 do you see where I'm looking?
 18 A. Uh-huh.
 19 Q. It says, "To get the attention of the
 20 EtherTIP's command processor, you must press the
 21 return key. A message may be printed out, followed
 22 by the EtherTIP's name. The EtherTIP is then ready
 23 to accept commands. See Figure 2-1. Words in
 24 boldface are typed by the user; normal type is
 25 printed by the EtherTIP; and italics are comments."

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1 A. Page 2 as in the documents, internal
 2 documents?
 3 Q. Yes, I'm sorry. And the control number at
 4 the bottom of page 2 of Exhibit 476 is CSI-CLI
 5 00358625. Are you there?
 6 A. I'm there.
 7 Q. Do you see a section called "2.1 Basic ASM
 8 Use"?

9 A. Yes, I see that section.
 10 Q. And the first sentence there says, "To get
 11 the attention of the ASM's command processor, you
 12 must press the return key."
 13 Did I read that correctly?
 14 A. Yes.
 15 Q. The next sentence says, "A message must be
 16 printed out, followed by the ASM's host name."
 17 Did I read that correctly?
 18 MR. NEUKOM: We'll stipulate to that.
 19 BY MR. WONG:
 20 Q. And the rest of the paragraph reads, "The
 21 ASM is then ready to accept commands. See Figure
 22 2-1. Words in boldface are typed by the user;
 23 normal type is printed by the ASM; and italics are
 24 comments."
 25 Did I read that correctly?

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1 Do you see that?
 2 A. Yes.
 3 Q. Now, that sounds like the same text that's
 4 in section 2.1 of the Cisco Systems ASM/AGS User
 5 Manual and Configuration Guide marked as
 6 Exhibit 476. Is that right?
 7 MR. NEUKOM: Objection. Mischaracterizes
 8 the document.
 9 THE WITNESS: Ask the question again. I'm
 10 sorry.
 11 BY MR. WONG:
 12 Q. The text that appears in the first
 13 paragraph under section 2.1 of the Stanford EtherTIP
 14 User Guide marked as Exhibit 36 is substantially the
 15 same as the text that appears under section 2.1 of
 16 the Cisco Systems ASM/AGS User Manual marked as
 17 Exhibit 476; isn't that right?
 18 MR. NEUKOM: Objection. Documents speak
 19 for themselves.
 20 THE WITNESS: I agree with your
 21 observation.
 22 BY MR. WONG:
 23 Q. You agree with whose observation?
 24 A. I was trying to answer your question.
 25 Q. Oh. Thank you, Mr. Lougheed.

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<p>1 The same page, you see Figure 2-1: 2 "Example EtherTIP Session" in Exhibit 36, correct? 3 A. Uh-huh. 4 Q. The first sentence underneath that says -- 5 and I'm looking at Exhibit 36. On page 2 of the 6 document, it says, "After you have a prompt, the 7 most common action is to type in the name of the 8 host to which you wish to connect and press the 9 return key." Right? 10 A. Yeah. 11 Q. If you look under Figure 2-1 in the Cisco 12 Systems ASM/AGS User Manual, which is Exhibit 476 on 13 page 2, it says, "After you have a prompt, the most 14 common action is to type in the name of the host to 15 which you wish to connect and press the return key." 16 Do you see that? 17 A. Uh-huh. 18 Q. Now, that's the exact same sentence, 19 correct? 20 A. Correct. 21 Q. Why did Cisco copy from the Stanford 22 EtherTIP User Guide marked as Exhibit 36 to create 23 its ASM/AGS User Manual marked as Exhibit 476? 24 A. I didn't have the time to go and change 25 all the documentation that I had written at</p>	Page 391	<p>1 THE WITNESS: Would you repeat the 2 question. 3 BY MR. WONG: 4 Q. Would you agree, Mr. Lougheed, that two 5 sentences are exactly the same in Exhibit 36, which 6 is the Stanford User Guide and Exhibit 476, which is 7 the Cisco User Manual, that those sentences were 8 copied by Cisco directly from the Stanford EtherTIP 9 User Guide? 10 MR. NEUKOM: Objection. Vague. Compound. 11 Calls for a legal conclusion. Calls for speculation 12 and opinion. 13 THE WITNESS: Given that I'm the author of 14 both documents, it's not surprising that I would 15 reuse my words in these two documents. 16 BY MR. WONG: 17 Q. And just so I have one example, 18 Mr. Lougheed, just to address counsel's objection, 19 in Exhibit 36, on the page with the control number 20 at the bottom of 1315527, the second paragraph from 21 the bottom. Are you there? It starts -- 22 A. "You may have more than one connection." 23 Q. Yes. Can you read that please, that one 24 sentence? 25 I'm sorry. Can you read that aloud,</p>	Page 393
<p>1 Stanford. 2 Q. Are there other similarities between the 3 two documents that you're aware of, Mr. Lougheed? 4 Let me ask it a different way. 5 How much of the Stanford EtherTIP/Gateway 6 User and Configuration Guide marked as Exhibit 36 7 did Cisco copy to create the Cisco Systems ASM/AGS 8 User Manual and Configuration Guide marked as 9 Exhibit 476? 10 MR. NEUKOM: Objection. Lack of 11 foundation. 12 THE WITNESS: I was the author of both 13 documents. I don't remember in quantifiable detail 14 how much I retained and how much I added. I'm sure 15 both documents could be compared. 16 BY MR. WONG: 17 Q. And would you agree, Mr. Lougheed, that if 18 two sentences are exactly the same in Exhibit 36, 19 which is the Stanford guide, and Exhibit 476, which 20 is the Cisco User Manual, that those sentences were 21 copied by Cisco from the Stanford EtherTIP User 22 Guide? 23 MR. NEUKOM: Objection. Vague. 24 Speculative and hypothetical. Also calls for 25 opinion testimony.</p>	Page 392	<p>1 please, that one sentence starting with "You may 2 have more than one connection." 3 A. This is Stanford stuff, yes. 4 "You may have more than one connection at 5 a time and switch back and forth between them. To 6 do this, get back to the EXEC by typing the escape 7 sequence, usually control up arrow or control arrow 8 followed by X." 9 Q. You can stop there, Mr. Lougheed. 10 Can you now look at Exhibit 476? And 11 Exhibit 476 is the Cisco Systems ASM/AGS User Manual 12 and Configuration Guide, Version 5.2, correct? 13 A. Yes. 14 Q. And this was provided to Cisco customers 15 when they purchased Cisco products, correct? 16 A. Yes. 17 Q. Can you please read the first two 18 sentences in the last paragraph shown on the page 19 ending in Bates Nos. 358625? 20 A. "You may have" -- "You may have more than 21 one connection at a time and switch between -- and 22 switch back and forth between them. To do this, get 23 back to the EXEC by typing the escape sequence, 24 usually control up arrow followed by X. See the" -- 25 Q. And that's the -- that's fine right there,</p>	Page 394

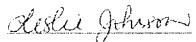
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1 Mr. Lougheed.	1 MR. WONG: I think it's our understanding
2 Now, those two sentences that you read	2 that all witnesses can have 30 days or something.
3 from the Stanford Ethertip User Guide marked as	3 MR. NEUKOM: By stipulation.
4 Exhibit 36 and the Cisco Systems ASM/AGS User Manual	4 MR. WONG: Great.
5 marked as Exhibit 476 are exactly the same, correct?	5 THE VIDEOGRAPHER: This concludes today's
6 A. Yes, I wrote both sentences.	6 videotaped deposition of Mr. Kirk Lougheed. We're
7 Q. And so Cisco copied those two sentences	7 off the record at 4:37 p.m.
8 from the Stanford guide marked as Exhibit 36 and put	8 (TIME NOTED: 4:37 P.M.)
9 them into the Cisco guide marked as Exhibit 476,	9
10 correct?	10
11 MR. NEUKOM: Objection. Asked and	11
12 answered a couple times now.	12
13 MR. WONG: I'm asking about those two	13
14 particular sentences.	14
15 MR. NEUKOM: Yeah. And before you asked a	15
16 blanket question and you didn't like his answer,	16
17 which I thought was a pretty darn good one. So you	17
18 decided to just keep him in the room --	18
19 MR. WONG: Counsel.	19
20 MR. NEUKOM: Look, you responded to my	20
21 objection. You wanted to engage me. So I'll	21
22 explain my objection. If you don't want me piping	22
23 up, that's fine. Just let me make objections for	23
24 the record.	24
25 Now you're asking him the exact same	25
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1 question after having had the fourth employee of	1 DECLARATION UNDER PENALTY OF PERJURY
2 Cisco, Mr. Lougheed, who is now here at almost 5:00	2
3 reading aloud from documents. And you asked him the	3 I, KIRK LOUGHEED, the witness herein,
4 same question again to see if you can get a	4 declare under penalty of perjury that I have read the
5 different answer. So go for it. This is starting	5 foregoing in its entirety; and that the testimony
6 to feel increasingly not very respectful of this	6 contained therein, as corrected by me, is a true and
7 witness's time.	7 accurate transcription of my testimony elicited at said
8 BY MR. WONG:	8 time and place.
9 Q. Do you want me to read the question again?	9
10 I'll read the question again.	10 Executed this _____ day of _____ 2016, at
11 A. That would be fine.	11 _____.
12 Q. Cisco copied those two sentences that you	12 (City) _____ (State) _____
13 just read aloud into the record for its user manual	13
14 marked as Exhibit 476 from the Stanford user manual	14
15 marked as Exhibit 36, correct?	15
16 A. I wrote both manuals.	16
17 MR. WONG: I have no further questions.	17
18 THE VIDEOGRAPHER: This concludes today's	18 _____
19 videotaped deposition of Mr. Kirk --	19
20 MR. NEUKOM: Oh, I'm sorry to interrupt.	20
21 On behalf of Mr. Lougheed, he reserves the	21
22 right to review an errata of the transcript. I	22
23 don't know, Ryan, if we've been doing this by	23
24 stipulation for all witnesses, even if it's not put	24
25 on the record.	25
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HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 REPORTER'S CERTIFICATION
2 I, Leslie Johnson, a Certified Shorthand
3 Reporter of the State of California, do hereby certify:
4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth; that
6 any witnesses in the foregoing proceedings, prior to
7 testifying, were administered an oath; that a record of
8 the proceedings was made by me using machine shorthand
9 which was thereafter transcribed under my direction;
10 that the foregoing transcript is a true record of the
11 testimony given.
12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [] was not requested.
16 I further certify I am neither financially interested in
17 the action nor a relative or employee of any attorney or
18 any party to this action.
19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.
21 Dated: April 19, 2016
22
23 
24 LESLIE JOHNSON
25 CSR No. 11451, RPR, CCRR

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